

REMARKS/ARGUMENTS

This application has been carefully considered in light of the Final office action dated September 15, 2008.

Claims 28-30 and 52-54 remain in the application. Claims 1-27, 31-51 and 55 have been cancelled. Claims 28-30 and 52-54 have been amended. New claims 56 and 57 have been added. Even in light of these amendments no new matter has been added.

The Examiner is rejecting claims 28-30 and 53-55 under 35 U.S.C. 112, first paragraph stating the claim limitation "airborne liquid droplets" is not supported by the specification and therefore constitutes new matter. The recitation of "airborne liquid droplets" in Claim 28 has been deleted.

Claims 28-30 and 52-55 are rejected under 35 U.S.C. 112, second paragraph as indefinite. Claim 28-29 and 52-54 have been amended to more clearly define the subject matter of the applicant's invention. Specifically, claim 28 has been amended explain the filter "traps and eliminates" Legionella Pneumophila. Claim 29 has been amended to rephrase the "type fibers" to "types of fibers". Claim 52 has been amended to more particularly claim the subject matter of the applicant's invention. The Markush language of claim 53 has been amended to conform to current US Patent Office standards. Claim 54 has been amended to remove the reference to a "density in the range of". Claim 54 now reads

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that the "fabric has a thicknesses of 01. to 15cm."

Based on the amendments to the claims removal of the rejections under 35 U.S.C. 112 is respectfully requested.

Claims 28-30 and 52-55 are rejected under 35 U.S.C. 102(b) as anticipated by US Patent Publication 2003/0170453 to Foss or in the alternative, under 35 U.S.C. 103(a) as obvious over Foss.

Claims 28-30 and 52-55 are rejected under 35 U.S.C. 103(a) as obvious over Foss in view of US Patent Publication 2003/0031687 to Falder. The Foss application is directed to a fiber or fabric treated with anti-microbial compounds which may be used to prevent the spread of diseases. The Falder application is directed to an anti-microbial composition which can be used to coat fibers including non woven fabrics which are used for a variety of functions. The Examiner states Foss anticipates all of the elements of the applicant's claimed invention. In the alternative, the Examiner states, while Foss does not specifically teach certain aspects of the applicant's claimed invention, Foss would still render the applicant's claimed invention obvious. Further, Foss when combined with Falder's specificity of anti-bacterial would also render the applicant's claimed invention obvious.

The conclusion as discussed by stated by the Examiner in the Final Office action is respectfully opposed for the reasons

herewith set forth. As discussed in the abstract of Foss, the anti-microbial additive used is added in such a way as to minimize the amount of anti-microbial needed as a cost savings method. With continued references to Foss, based on this use, the anti-microbial is found only in part of the fiber (para 211-218) component. In Fig. 1A, the anti-microbial is simply part of the outer sheath of the fiber component. In Figs. 1B, 1B' and 1B'', the anti-microbial makes up only a divided portion of the fiber component. In Fig. 1C, the filament 10C containing the anti-microbial is a binder and must be combined with the fibers 10D in order to provide the strength needed for the filter, not simply a treated fiber.

This is unlike the fibers of the applicant's claimed invention which are treated with an anti-bacterial compound in such a way as to be "integrated into all of the body and core" of the fiber (page 14, first paragraph). The treatment of the fibers of the applicant's claimed invention is not merely an "adherence" or a superficial treatment of anti-bacterial compound. But rather, the fibers of the applicant's claimed invention are integrated with the anti-bacterial into the body and core of the fiber.

Again referring to Foss, the use of a binder in the bi-component fiber places certain limits on the product as

described. The binder of Foss is an "amorphous polyester of terephthalic acid and a mixture of predominately ethylene glycol and a lesser amount of 1,4-cyclohexandimethanol", hereafter referred to as PETG (para 53). PETG as discussed in Foss (paragraphs 287, 288, 290) has a melting temperature of between 110-140°C. which allows the binder, PETG, to melt and flow over the fiber, which has a higher melting point, thus distributing the anti-microbial compound.

In reviewing the applicant's claimed invention (page 19, second paragraph of the substitute specification), the fibers which compose the fabric of the applicant's invention exhibit anti-bacterial properties at temperatures exceeding 200°C. This is important since Legionella is considered most dangerous in forms capable of being inhaled. The ability of the applicant's claimed invention to be efficacious at such high temperatures, assist in the elimination of the Legionella from the air and thereby reduce the likelihood that it can be inhaled. The ability of the applicant's claimed invention to be used at higher temperatures whereby Legionella would be found in the air is a distinct advantage over Foss which would not be viable at high temperatures.

Given the binder of Foss would melt causing the filter to breakdown at temperatures above 140°C, Foss cannot anticipate the

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applicant's claimed invention. Further Foss' use of a binder with a melting point of lower temperatures would teaches away from the idea of temperature claimed in the applicant's invention. Therefore, not only could Foss not anticipate the applicant's claimed invention, it also would not render obvious the applicant's claimed invention. Likewise if Foss does not anticipate the applicant's claimed invention, the combination of Foss and Falder would not render the applicant's claimed invention.

In light of the foregoing it is respectfully requested that the rejections of the claims be removed and a subsequent notice of allowance be issued.

An earnest effort has been made to place this application in condition for formal allowance, which action is requested. Should the Examiner have any questions regarding the allowability of the claims, it is requested that an interview be granted with applicant's representative prior to taking any action that may be considered as final. Any fees necessitated by the filing of this response may be charged to Deposit Account 04-1577.

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Respectfully submitted,

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